

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

Ex parte CLIFTON LIND,  
BRENDAN O'CONNOR, GARY L. LOEBIG,  
ROBERT LANNERT, JOSEPH R. ENZMINGER  
and  
JEFFERSON C. LIND

---

MAILED

FEB 13 2008

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Application 10/643,189

---

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

---

This application was received electronically at the Board of Patent Appeals and Interferences on February 9, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed March 27, 2007.

37 CFR § 41.37(c)(1)(v) (2006) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(ii) *Related appeals and interferences.* A statement identifying by application, patent, appeal or interference number all other prior and pending appeals, interferences or judicial proceedings known to appellant, interferences or judicial proceedings known to appellant, the appellant's legal representation, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Copies of any decisions rendered by a court or the Board in any proceeding identified under this paragraph must be included in an appendix as required by paragraph (c)(1)(x) of this section.

The Appeal Brief filed March 27, 2007 is deficient because the "Related appeals and interferences" section does not contain a statement regarding Serial No. 10/624,279. It is noted that the present application is a continuation-in-part of 10/624,279, which is currently on appeal. Correction is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

1) to hold the Appeal Brief filed on March 27, 207, defective;

- 2) for notification to appellants to file a paper providing a statement correcting the "Related appeals and interferences" section as required by 37 CFR 41.37(c)(1)(ii);
- 3) for consideration of said paper; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: Patrick J. Nolan  
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571) 272-9797

PJN:psb

The Culbertson Group, P.C.  
1114 Lost Creek Boulevard  
Suite 420  
Austin, TX 78746